

United States District Court

L.A. 1.04 CV 12199 MLW

Richard D. Lawson (Plaintiff)

vs. Jury Trial Demand

1. The Norfolk County District

Attorney's office, (ET AL) Respondant)

2. Ex-AAF Peter Casey

Amended Verified Civil Complaint

A. Introduction

1. Richard D. Lawson hereinafter the plaintiff hereby files this Amended Verified Civil Complaint pursuant to Fed. R. Civ. P. 15 and brings this 42 U.S.C.A. § 1983 complaint Alleging False prosecution, False Imprisonment, That violated plaintiff's constitutional rights under the 5th, 6th & 14th amendments U.S.C.A. To Due-process, Equal protection of Law & The Freedom From Cruel & unusual punishment, The right to be Free From Arbitrary & Capricious Law enforcement. At the Hands of Respondants. Plaintiff seeks compensatory monetary relief, punitive relief, for prosecutors malicious intent to cause a deprivation of statutory & constitutional rights.

(1)

B.

Parties

The plaintiff is a united states citizen who resides at cedar JUNCTION at P.O. Box 120 S. Walpole, MA, 02071

The respondent is a united states Ex-Assistant Attorney general who resides at

~~is being sued in his individual & official capacity.~~

C.

Jurisdiction

This court has original, final, and subject matter Jurisdiction, Federal question Jurisdiction pursuant to 42 U.S.C.A § 1983, 28 U.S.C.A § 1333 §1331 & 3337. & supplemental Jurisdiction.

(1-A)

D.

Facts

2. On 10/28/93 The plaintiff was Indicted for Indictment # 96977 charging; Breaking & Entering w/Intent to commit A Misdemeanor in violation of statute M.E.L.A.C. 266 § 16(A), "In the day time" On # 96977 Charging Breaking & Entering w/Intent to commit A Felony In violation of statute M.E.L.A.C. 266 § 16 Charging Breaking & Entering in the Night Time, out of Norfolk Superior court.
3. The Indictment was Instituted by Respondant.
4. On 10/4/1994 The plaintiff was conned into pleading guilty by his public pretender to what Transcripts report As A plea too simply put "Breaking & Entry" out of Norfolk Superior court.
5. The plaintiff received an 8 To 10 year split w/5 years 9 months to serve the balance suspended w/3 years probation on Indictment 96977 & on Indictment 96978 A concurrent sentence.
5. On 4/28/97 The plaintiff was released on the split portion of the Above sentence.
6. On 9/2/1997 The plaintiff was arrested.
7. On 6/2/98 the Norfolk superior court began a probation surrender hearing against the plaintiff on Indictment # 96977 Only found the plaintiff had violated his probation and imposed the remainder of the 8 To 10.
8. On 6/1998 The plaintiff Filed A notice of appeal

9. On _____ Attorney Colby was appointed to represent the plaintiff on appeal from the probation surrender proceeding.

10. On _____ Appellate counsel argued his brief before the appeals court for Massachusetts.

11. Appellate counsel argued that plaintiff was only violated on Indictment 96977 charging Breaking & Entering with intent to commit a misdemeanor in the day time and carried a maximum punishment of 6 months in a jail and trial counsel was ineffective as a result of not being able to have been given the opportunity to argue that fact.

12. The Assistant Attorney General Robert Losgrave confessed error and the Appeals court reversed the Superior court decision violating my probation on Indictment 96977 charging Breaking & Entering w/intent to commit a misdemeanor (and gave the plaintiff time served).

13. The Norfolk Superior court was also ordered to conduct a new probation surrender hearing, in order with due-process to hold the plaintiff in custody.

14. The Department of Corrections held the plaintiff.

15. Appellate counsel filed a motion to release from unlawful restraint. An evidentiary hearing was held and the court denied the motions to which an appeal was taken. Respondent Peter Casey defended the Commonwealth.

(3)

16. Norfolk County district Attorney's office never initiated Another probation surrender Hearing As Ordered by the Appeals court.

17. In the Interum of the Appeal from the unlawfull Restraint motion the plaintiff Was released From custody on A Good Conduct discharge meaning, he finished serving his 8 To 10 year sentence.

18. In _____ The Appeals court finally made A ruling reversing the superior court ruling on the Evidentuary hearing which the Norfolk County District Attorney's office Defended After confessing Error to the Appeals court, opposed to Telling the court that No due-process was Holding the plaintiff in legal custody, And should be released from custody but chose to be tight Lipped & Not Alert the court, and instead with All The Knowledge of error, chose not to seek the truth and prosecute the plaintiff At the motion for release from unlawfull restraint, Evidentury hearing.

19. The Norfolk County District Attorney's office First Instituted A False prosecution on charge they well knew the superior court had No Jurisdiction over, see M.G.L.A.C. 274 § 1, "A crime punishable

by death or imprisonment in the state prison is
A Felony. All other crimes are misdemeanors.

20 The Respondants Are Veterans in the Law
and clearly violated the plaintiffs statutory &
& constitutional rights by Instituting a false
prosecution, not once, but three, one by A Fraud
upon the court by prosecuting a misdemeanor
in superior court, twice by Allowing the
Court to sentence the plaintiff too often year
sentence on A misdemeanor - 3rd by continued
prosecution and detention After the state Appeals court
put the Respondants on notice of the wrong.
clearly was conduct that was shocking Arbitrary
and Capricious and violated plaintiffs Freedom from
such conduct as protected by the 5th amendment
U.S.C.A. due-process of Law clause As made
applicable upon the state through the 14th amendment
U.S.C.A.; As well as violating the due-process
of Law clause of the fourteenth amendment U.S.C.A.
And the Equal protection of Law by the conduct
of state prosecutors, prosecuting the plaintiff
differently then those similarly situated As the
plaintiff, within the same state prisons.

United States District court

E.A. 1.04 CV 12199 MLW

Richard D. Elawson (Plaintiff)

vs. Jury Trial Demand

1. The Norfolk County District Attorney's office, (ET AL) (Respondant)
2. Ex-AAG Peter Casey

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of Law clause of the fourteenth amendment U.S.C.A.
and the Equal protection of Law by the conduct
of state prosecutors, prosecuting the plaintiff
differently then those similarly situated As the
plaintiff, within the same state prisons.

21. The Respondant was in knowledge of the fact That the 96977 Indictment was a misdemeanor that carried a maximum punishment of 6 months in Jail. statute MIG.L.R.C. 266 § 16(2)

22. The respondent had 1st sought the Indictments & was fully aware of the fact that the Grand Jury returned the Indictment Alleging A misdemeanor, but Allowed the plaintiff to plead guilty to 10 years for that Indictment, which is a False prosecution & A Fraud upon the court, & A clear statutory violation of the plaintiff's Freedom From the loss of Liberty without due-process of Law as guaranteed by the 5th and 14th amendments U.S.C.A. & Freedom From Arbitrary & capricious Law enforcement.

23. Respondant New, the Appeals court ruled the statute ~~had~~ clearly violated the plaintiff's statutory rights, yet in the face of that ruling the respondent New the plaintiff hadn't received due-process of Law at the probation surrender hearing and At the Evidentiary hearing At the motion to release from unlawfull restraint, but remained silent and Failed to Alert the courts That the plaintiff was being held in custody without due-process of Law.

24. The respondants total conduct in this case is shocking coming from a state prosecutor.

25. Respondant casey prosecuted the Indictment, The p'Lea Hearing & The unlawfull restraint & Evidentuary Hearing, which was reversed by the Appeals court to which no Appeal was taken.

26. The plaintiff assesses relief as follows:

Compensatory monetary relief	5,000,000.00
<u>punitive Damages</u>	<u>3,000,000.00</u>
Total Damages requested	8,000,000.00

27. The plaintiff open to out of court settlement negotiations.

E, Verification

The plaintiff states the above Facts to be true
As recorded under penalties of perjury

Date _____

Richard Elawson

MCI-cedar Junction
P.O. Box 100
S. Walpole, MA 02071

(7)